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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,253	11/27/2001	Michael Stanford Showell	CM2006XM	2504

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[REDACTED] EXAMINER

KUMAR, PREETI

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

1751

7

DATE MAILED: 03/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/889,253  <b>Examiner</b> Preeti Kumar	<b>Applicant(s)</b> SHOWELL ET AL.  <b>Art Unit</b> 1751
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 27 November 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-30 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

1. Claims 1-30 are pending. Claims 2-5, 7, 9-12, 14-16, 19-23, 26-30 have been amended.

### *Priority*

2. Acknowledgment is not made of applicant's claim for foreign priority based on PCT applications filed on January 13 and 14, 2001 since applicant has not filed a certified copy of the PCT/US99/00790, PCT/US99/00800, PCT/US99/00801, PCT/US99/00802, PCT/US99/00803, PCT/US99/00838 application as required by 35 U.S.C. 119(b).

### *Specification*

3. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.
4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

***Claim Objections***

5. Claims 7, 8, 19 and 30 are objected to because of the following informalities: In claims 7 and 8, stabilizing is spelled incorrectly as "stabilising". In claim 19, accordingly is spelled incorrectly as "accordidng". In claim 30, composition is spelled incorrectly as "compsoition" Appropriate correction is required.

6. Claim 11 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The range cited in instant claim 11, falls outside the range cited by the independent claim 10.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 5, 8, 12, 13, 23, 24, and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 5, 8, 12, 13, 23, 24, and 25, the instant claims are written as alternative expressions. Alternative expressions are permitted if they present no uncertainty or ambiguity with respect to the question of scope or clarity of the claims. One acceptable form of alternative expression, which is commonly referred to as a Markush group, recites members as being "selected from the group consisting of A, B, and C." See *Ex parte Markush*, 1925 C.D. 126 (Comm'r Pat. 1925).

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9. Claims 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 28-30 provide for the use of a composition, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

***Claim Rejections - 35 USC § 101***

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 28-30 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-8, 10-11, 21-24 and 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Herbots et al. (WO 98/06808).

Herbots et al. teach detergent compositions, including dishwashing, hard surface cleaning, and laundry compositions containing an alkaline pectin degrading enzyme for improved overall cleaning performance and enhanced stain/soil removal benefits, especially improved removal of plant, dried-on fruit and vegetable juice soils/stains.

See abstract. Herbots et al. define that the term "pectin degrading enzyme" is intended to encompass pectin lyase (EC 4.2.2.10) and pectate lyase (EC 4.2.2.2) and other polygaluronase enzymes. See pg. 5, (last paragraph). The alkaline pectin degrading enzymes are natural mixtures of the above mentioned enzymatic activities. See pg.6, (top). Herbots et al. also teach that the pectin degrading enzyme is incorporated into the compositions in accordance with the invention preferably at a level of from 0.0001% to 2%. See 3<sup>rd</sup> paragraph on pg.6. Herbots et al. also teach that the inclusion of surfactants, such as ethoxylated alcohol and/or polyethylene glycol, are of great value in detergent compositions containing alkaline pectin degrading enzymes. See 2<sup>nd</sup> paragraph on pg.9, pg.50 2<sup>nd</sup> paragraph, and example 13 on pg.78. Herbots et al. teach the utility of biodegradable quaternary ammonium compounds. See pgs.38-41. Herbots et al. teach that the peroxygen source may comprise a peracid compound as recited by instant claim 23. Herbots et al. also teach that the hydrogen peroxide source may be selected from perborate, percarbonate, and/or perphosphate compounds. See pg. 17, 2<sup>nd</sup> paragraph. Herbots et al. also teach the utility of the detergent composition in essentially any washing or cleaning methods, including soaking methods,

pretreatment methods and methods with rinsing steps for with a separate rinse aid composition may be added. See pg. 53 1<sup>st</sup> paragragh. Herbots et al. teach in example 15, formulation IV, a detergent composition comprising, a pectate lyase enzyme, a metal bleach catalyst (pentaamine acetate cobalt III salt), and a combination of a peroxygen source (perborate) and bleach booster (benzoyl peroxide). Accordingly, the broad teachings of Herbots et al. appear to anticipate the material limitations of the instant claims.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herbots et al. (WO 98/06808) as applied to claims 1-8, 10-11, 21-24 and 26-30 above, and further in view of Bostick (US 5,334,326).

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Herbots et al. are relied upon as set forth above. However, Herbots et al. do not specifically teach a diaroyl peroxide as recited by the instant claim.

Bostick teaches examples of stable diaroyl peroxides such as ortho and para methyl and 2,4-dichloro derivatives of dibenzoyl peroxide. Bostick teaches the most important and highly stabilized is the unsubstituted dibenzoyl peroxide. See col.2, ln.40-50.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a diaroyl peroxide in the detergent composition taught by Herbots et al. with a reasonable expectation of success, because Bostick teaches the utility stable diaroyl peroxides such as dibenzoyl peroxide and further Herbots et al. teach the use of benzoyl peroxide in general.

16. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herbots et al. (WO 98/06808) as applied to claims above 1-11, 21-24 and 26-30.

Herbots et al. are relied upon as set forth above. Herbots et al. do not specifically teach the utility of a bleach activator in the detergent composition formulation IV. However, Herbots et al. suggest that a bleach activator may be selected from tetraacetylethylenediamine or any of the sulfonates recited in instant claim 25.

See pg. 16, 2<sup>nd</sup> paragraph.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a bleach activator in the detergent composition taught by Herbots et al. with a reasonable expectation of success, because Herbots et al. suggest

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the utility of tetraacetyl ethylenediamine as a bleach activator in a similar detergent composition.

17. Claims 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herbots et al. (WO 98/06808) as applied to claims 1-11, 21-30 above, and further in view of Miracle et al. (WO 97/10323).

Herbots et al. are relied upon as set forth above. However, Herbots et al. do not specifically teach a bleach booster consisting of aryliminium zwitterions having the specific formula/substituents as recited by the instant claims.

Miracle et al. teach a laundry additive product (color-safe bleach boosters) including zwitterionic imines and anionic imine polyions with a net negative charge. See abstract. Miracle et al. teach a composition comprising a bleach booster selected from aryliminium zwitterions with the general formula recited in instant claims 13-20. See pg.3-4 and claims 5-10.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a bleach booster consisting of aryliminium zwitterions in the detergent composition taught by Herbots et al., with a reasonable expectation of success, because Miracle et al. suggest a bleach booster having the same formula as recited by the instant claims, and further, the broad teachings of Herbots et al. suggest a detergent composition comprising a bleach booster in general.

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***Conclusion***

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 703-305-0178. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 703-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Preeti Kumar  
Examiner  
Art Unit 1751

PK  
March 11, 2002

**GREGORY DELCOTTO  
PRIMARY EXAMINER**

